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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/716,639 | 11/19/2003 | Ellen Golds | 760-57 RCE/CON | 7657 |
| 23869 | 7590 | 06/06/2006 | EXAMINER | |
| HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791 | | | HO, UYEN T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3731 | |
| DATE MAILED: 06/06/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,639

Applicant(s)

GOLDS ET AL.

Examiner

(Jackie) Tan-Uyen T. Ho

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 26-34 is withdrawn in view of the newly discovered reference(s) to White et al. (5,782,904). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 26-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (5,782,904) in view of Martin et al. 6,042,605. White et al. disclose a stent graft comprising a tubular member having slit and a wire stent in zigzag shape having peaks exposed through slits. Although, White et al. do not disclose the stent being helical in form, the tubular member being made from PTFE and an inner graft (a first PTFE tubular structure) as claimed.

Martin et al. (6,042,605) disclose a stent helical stent supporting a graft from end to end and the graft being made from PTFE.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make White et al.'s stent in a helical form in order to support the graft from end to end and an inner graft member in order to provide a

smooth inner surface for the stent graft to enhance the flow within the lumen of the tubular graft.

Regarding to the laser cut, it is known in the art to use laser to make hole/slit through sheath or graft. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use laser to make slit through graft.

4. Claims 26-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson (4,731,073) in view of Martin et al. '605 and White et al. '904. Robinson discloses a helical stent between to inner and outer grafts. Although, Robinson does not disclose the graft being made from PTFE and the peaks exposed through slit from outer graft. Martin et al. disclose a helical stent for support an inner graft and suggest that the helical stent should only partially cover in order to enhance the kink resistance and flexibility of the stent-graft. Martin et al. disclose a way to leave the peaks of the helical stent uncover by using a ribbon. White et al. disclose another way to leave the peaks of the stent uncover by extending the peaks through slits.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to expose the peaks of Robinson's helical stent through the outer graft either by the way as disclosed by Martin et al. or by the way as disclosed by White et al. in order to enhance the kink resistance and the flexibility.

Regarding to the laser cut, it is known in the art to use laser to make hole/slit through sheath or graft. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use laser to make slit through graft.

Doing so would meet all the limitation of the claims or doing so would carry out all the steps as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANHTUAN NGUYEN can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



(Jackie) Tan-Uyen T. Ho
Primary Examiner
Art Unit 3731

May 30, 2006